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MAY 31 1969

JOHN F. DAVIS, CLERK

No. 35, Original

In the Supreme Court of the United States

OCTOBER TERM, 1968

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATE OF MAINE, NEW HAMPSHIRE, MASSACHUSETTS, RHODE ISLAND, NEW YORK, NEW JERSEY, DELAWARE, MARYLAND, VIRGINIA, NORTH CAROLINA, SOUTH CAROLINA, GEORGIA AND FLORIDA

Brief of the State of Maine in Opposition to Motion of the United States of America for Leave to File Complaint, and Statement of States of New Hampshire, Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Florida with Respect Thereto.

STATE OF MAINE,
JAMES S. ERWIN,
Attorney General,

ROBERT G. FULLER, JR.,
Assistant Attorney General,

State House,
Augusta, Maine 04330

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No. 35, Original

In the Supreme Court of the United States

OCTOBER TERM, 1968

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATE OF MAINE, ET AL.

Brief of the State of Maine in Opposition to Motion of the United States of America for Leave to File Complaint

Comes now the State of Maine and pursuant to Supreme Court Rule 9 (5), files the following brief in opposition to the motion of the United States of America for leave to file its complaint in the above action:

I. THE COMPLAINT ALLEGES NO FACTS REVEALING THE EXISTENCE OF A CASE OR CONTROVERSY WITHIN THE MEANING OF ARTICLE III, SECTION 2 OF THE CONSTITUTION OF THE UNITED STATES.

The United States alleges that this cause is within the original jurisdiction of this Court by virtue of Article III, Section 2, Paragraph 2, of the Constitution of the United States and Title 28, United States Code, Section 1251 (b) (2). (Complaint, Paragraph I.) This jurisdictional allegation appears to be based solely on the naked allegations proffered in Paragraphs IV and V of the complaint, which, in substance, assert that the defendants claim some right adverse to the United States in the seabed and subsoil of the Atlantic Ocean

more than three geographic miles seaward from ordinary low-water mark, and that in the exercise of such rights, Maine has purported to grant exclusive oil and gas exploration rights in the area. These allegations are wholly unsubstantiated in the complaint and in the accompanying brief. In Maine's view, the only conceivable basis for the allegations sought to be advanced in Paragraphs IV and V of the complaint would seem to be the non-reply of Maine and the other defendant States to the Solicitor General's letter of March 19, 1969, which requested Maine and other states bordering on the Atlantic Ocean to disclaim all right or interest in the Atlantic Continental Shelf more than three miles from their respective coastlines or be joined in the instant cause. (Such letter is printed in the Appendix to this brief.) The Solicitor General also, it is true, makes reference in the brief of the United States (page 14) to alleged "repeated public assertions of . . . claims (by Maine) to vast submerged areas lying more than three miles seaward. . . ", but cites not one instance when or where or in what manner such alleged claims have been made.

The pyramiding of allegation upon unsubstantiated allegation, with such allegations, in turn, being based upon the non-reply to a letter and undocumented "public assertions", appears to be an inappropriate basis upon which to invoke the jurisdiction of this Court. This attempt wholly fails to reveal a situation arising to the dignity of the "case or controversy" which, this Court has consistently held, must exist in order to warrant exercise of original jurisdiction under the provisions of the United States Constitution and the United States Code cited by the Solicitor General.

In *United States v. West Virginia,* 295 U. S. 463 (1935), this Court stated:

> "General allegations that the State challenges the claim of the United States . . . and asserts a right superior to that of the United States . . . raise an issue too vague and ill-defined to admit of judicial determination." 295 U. S. 463, 474.

Maine submits that the complaint offered by the United States contains no more than "general allegations" similar to those rejected by this Court as a basis for original jurisdiction in the *West Virginia* case.

The defects of the complaint sought to be filed in the *West Virginia* case are present in the complaint sought to be filed here. According to the opinion in *West Virginia:*

> "The bill . . . neither asks the protection or alleges the invasion of any property right. It asserts no title in the United States . . . which might afford a basis for a suit to remove a cloud on title . . . [T]here is no allegation of any interference by the state, actual or threatened, with any of the land or property. . . " 295 U. S. 463, 471.

Using these guidelines as a test of the acceptability of the complaint which the United States here offers, it is apparent in the first instance that no state action, capable of construction as an invasion of any property right of the United States, is alleged. It may be said here that certain limited rights to engage in survey and exploratory activities have been granted by the State of Maine to a private company, but even these rights and any projected exercise thereof are subject to further review and approval by the State of Maine. Accordingly, the allegations in Paragraph VII of the complaint that the State of Maine by its conduct and claims is interfering with and obstructing, or threatening to obstruct, the orderly and effective exploration, leasing and development of said mineral resources is considerably premature.

To the best of Maine's knowledge, the private company referred to above has taken no action to date, under color of any document issued by the State of Maine, which could be interpreted as taking possession of any claim area or as engaging in mining or drilling operations.

It is helpful to compare Maine's actions and those of the other defendant states with those of other states in cases where this Court has chosen to exercise its original jurisdiction. For example, no situation exists in this case similar to that in *United States v. Utah,* 283 U. S. 64 (1931). There, the United States had:

> " . . . executed and delivered numerous prospecting permits covering portions of the river beds in question, giving to the permittees the exclusive rights of prospecting for petroleum, oil and gas minerals,

> and . . . the permittees (had) entered upon development work; . . . " 283 U. S. 64, 72 (1931).

Utah had leased portions of the same river beds. Thus, clear and conflicting claims of title were presented. Here, however, neither Maine nor any other defendant state has taken any action comparable to that taken by Utah. Maine has conveyed no leasehold interests predicated upon any underlying claim of title adverse to that of the United States. Maine's actions, with respect to granting permission for private survey or exploratory activity, have not infringed upon the rights of any Federal permittee or lessee. To Maine's knowledge there are none in this area. How, then, does Maine's action obstruct and interfere with "orderly and effective exploration, leasing and development of said mineral resources", as the United States alleges? (Complaint, Paragraph VII.)

Regardless of how firmly convinced the United States might be that at some unknown time in the future some as yet undefined action might be taken which will possibly involve exploring for minerals off the coast of Maine and the coasts of the other defendant states, until that time comes it must be abundantly clear that there is no intrusion upon a Federal interest, and that the alleged conflict between any sovereign state and the United States is quite hypothetical.

It is possible that initial mining operations off the Maine coast, if and when they are begun, will be within the area which the United States concedes to be encompassed by the boundaries of Maine. (Complaint, Paragraph III.) Thus, it is apparent that the facts in this case fall far short of creating a justiciable "case or controversy" as compared to those which led this Court to exercise its original jurisdiction in *Utah*.

Much less is this case like *United States v. California*, 332 U. S. 19 (1946), where this Court found a "controversy in the classic sense", 332 U. S. 19, 25, to exist where

> "(t)here is a claim by the United States, admitted by California, that California has invaded the title of paramount right asserted by the United States to a large area of land and that California has converted to its own use oil which was extracted from that land." 332 U. S. 19, 25.

The facts alleged in the case at bar fall far short of a classic controversy. The qualified authorization issued by Maine for private survey or exploratory activity has been assumed by Plaintiff to be an invasion of Federal rights, but only in the vaguest sense. Certainly the United States does not allege (as was the situation in the California case) that any defendant has converted any oil or gas from Atlantic offshore sites to its own use. In fact, no allegation is made that any such oil or gas exists or has been discovered.

California would appear to hold that without "conflicting claims of alleged invasions of interests in property and . . . conflicting claims of Governmental powers to authorize its use", 332 U. S. 19, 25, there is no justiciable controversy.

II. THE COMPLAINT STATES NO FACTUAL BASIS FOR AN ACCOUNTING.

Plaintiff alleges it is entitled to an accounting for all sums of money derived by the defendants from the area lying more than three geographical miles seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast, which are properly owing to the United States. (Complaint, Paragraph VI.)

There is no allegation that the State of Maine or any other defendant has received any such sums of money or that any money is due and owing to the State from the area in question.

The State of Maine has not received any such money for which an accounting could be made. In the absence of any and all such sums of money or any obligation to pay the same, there is nothing for which an accounting can be made. Accordingly, in this area of inquiry there is likewise no controversy or justiciable issue to be determined by the Court.

III. THE COMPLAINT FAILS TO ALLEGE FACTS IN SUPPORT OF PLAINTIFF'S CLAIM OF URGENT NEED.

While it is true, as alleged in paragraph VII of the complaint, that Congress, by the Outer Continental Shelf Lands Act, declared the "urgent need for further exploration and development of the oil and gas deposits of the submerged lands of the

outer Continental Shelf", it must be conceded by Plaintiff that the absence of such exploration and development in the Atlantic coastal area during the sixteen intervening years is not related in any way to interference of any kind by the State of Maine.

Again, in paragraph VIII of the complaint it is suggested there is urgent need for prompt and final settlement of the controversy because the fundamental question in issue relates to undefined aspects of the foreign policy of the United States.

While the State of Maine would not presume to challenge the right of the Plaintiff to determine matters of foreign policy, it would appear to be appropriate to suggest that this is basically the responsibility of the executive branch of the federal government rather than the judiciary. Especially is this true, we hasten to add, where the complaint is stated in terms so vague and general as to leave the State completely uninformed as to what specific elements of foreign policy are involved.

IV. CONCLUSION

The United States has failed to show that the actions of Maine or of any defendant state constitute a "conflicting claim" of any sort, beyond the mere allegation that such actions challenge Federal authority, an allegation that presents "an issue too vague and ill-defined to admit of judicial determination". *United States v. West Virginia*, 295 U. S. 463, 474. Without alleging how such actions are adverse to some Federal interest, the complaint falls short of alleging a case or controversy calling for the exercise of this Court's original jurisdiction. The complaint is therefore, at best, premature.

WHEREFORE, the State of Maine respectfully prays that the motion of the United States for leave to file its complaint in this action be denied.

Respectfully submitted,

STATE OF MAINE,
JAMES S. ERWIN,
Attorney General,

ROBERT G. FULLER, JR.,
Assistant Attorney General.

June , 1969.

Statement and Prayer of Remaining State Defendants

The States of New Hampshire, Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Florida, defendants herein, concur and join in the foregoing brief of the State of Maine, and, for the reasons therein stated, likewise pray that the Motion of the United States for leave to file its complaint in this cause be denied.

STATE OF NEW HAMPSHIRE,
GEORGE S. PAPPAGIANIS,
Attorney General.

COMMONWEALTH OF MASSACHUSETTS,
ROBERT H. QUINN,
Attorney General.

STATE OF RHODE ISLAND
AND PROVIDENCE PLANTATIONS,
HERBERT F. DESIMONE,
Attorney General.

STATE OF NEW YORK,
LOUIS J. LEFKOWITZ,
Attorney General.

STATE OF NEW JERSEY,
ARTHUR J. SILLS,
Attorney General.

STATE OF DELAWARE,
DAVID P. BUCKSON,
Attorney General.

STATE OF MARYLAND,
FRANCIS B. BURCH,
Attorney General.

COMMONWEALTH OF VIRGINIA,
ROBERT Y. BUTTON,
Attorney General.

STATE OF NORTH CAROLINA,
ROBERT B. MORGAN,
Attorney General.

STATE OF SOUTH CAROLINA,
DANIEL R. MCLEOD,
Attorney General.

STATE OF GEORGIA,
ARTHUR K. BOLTON,
Attorney General.

STATE OF FLORIDA,
EARL FAIRCLOTH,
Attorney General.

Appendix

Letter from the Solicitor General to the Attorneys General of the Atlantic seaboard states.

(Seal)

OFFICE OF THE SOLICITOR GENERAL
WASHINGTON, D. C. 20530

March 19, 1969

Gentlemen,

This letter, addressed to the Attorneys General of the thirteen Atlantic seaboard States listed on page 3, follows my prior communication of February 25, 1969, and some replies received in the interim.

A few of the States involved have indicated a desire to postpone litigation for an indefinite period with a view to exploring a legislative resolution of the controversy. Such a prospect may be too remote and uncertain to justify further delay in initiating the legal proceedings outlined in my earlier letter. In prior meetings between representatives of the United States and the affected States, the view that the contemplated suit is the only realistic approach at this time was generally concurred in. At all events, in light of the pressing dispute between the United States and the State of Maine, and the Supreme Court's quite reasonable requirement that all States interested in the same question be joined as defendants, there does not appear to be any alternative but to file the proposed original action against all of the Atlantic seaboard States who assert claims in the Ocean beyond three miles from their respective coastlines.

The joinder of States other than Maine is, of course, premised on the assumption that each of them in fact claims submerged lands underlying the Atlantic more than three miles from its coastline. If we are mistaken in this assumption with respect to any of the States involved, you should promptly

advise me. In the absence of such a disclaimer, we are planning to file a complaint on behalf of the United States in the Supreme Court, joining all the listed States, on April 1, 1969, or as soon thereafter as the papers can be prepared.

Very truly yours,

/s Erwin N. Griswold
Erwin N. Griswold
Solicitor General

Certificate of Service

I certify that in compliance with Supreme Court Rule 33 (2) (a) I have this day served a copy of the foregoing brief upon the plaintiff, United States of America, by mailing such copy by air mail, with postage prepaid, to the Solicitor General, Department of Justice, Washington, D. C. 20530.

ROBERT G. FULLER, JR.,
Assistant Attorney General,
State of Maine.

Dated:

(3533)

No. 35, Original

SEP 13 19

JOHN F. DAVIS,

IN THE

Supreme Court of the United States

October Term, 1968

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATES OF MAINE, NEW HAMPSHIRE, MASSACHUSETTS, RHODE ISLAND, NEW YORK, NEW JERSEY, DELAWARE, MARYLAND, VIRGINIA, NORTH CAROLINA, SOUTH CAROLINA, GEORGIA and FLORIDA,

Defendants.

ANSWER OF DEFENDANT, THE STATE OF NEW YORK

LOUIS J. LEFKOWITZ
Attorney General of the State
of New York
Attorney for Defendant,
The State of New York

RUTH KESSLER TOCH
Solicitor General of the State
of New York

JULIUS L. SACKMAN
Assistant Attorney General of the State
of New York

The Capitol
Albany, New York 12224

BATAVIA TIMES, LAW PRINTERS,
BATAVIA, N. Y.

IN THE

Supreme Court of the United States

October Term, 1968

No. 35, Original

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATES OF MAINE, NEW HAMPSHIRE, MASSACHUSETTS, RHODE ISLAND, NEW YORK, NEW JERSEY, DELAWARE, MARYLAND, VIRGINIA, NORTH CAROLINA, SOUTH CAROLINA, GEORGIA and FLORIDA,

Defendants.

ANSWER OF DEFENDANT, THE STATE OF NEW YORK

Comes now the sovereign State of New York (hereinafter for brevity called "New York"), one of the defendants in this cause, by and through its Attorney General, Louis J. Lefkowitz, and in answer to the allegations contained in paragraphs of the Plaintiff's complaint numbered I through IV and VI through VIII thereof, as repeated and realleged in paragraph XII thereof under the heading *Fifth Cause of Action,* admits, denies and alleges as follows:

I.

As to Paragraph II of the Plaintiff's complaint, New York denies that Plaintiff has any proprietary rights over

the area therein described and asserts that New York now has and always has had full title thereto or full property interest therein.

II.

As to Paragraph III of the Plaintiff's complaint, New York alleges that the provisions of the Submerged Lands Act, 67 Stat. 29 (1953), speak for themselves, and, insofar as the allegations in said Paragraph III may imply that prior to the effective date of the Submerged Lands Act New York was without power to exercise dominion and control over the exploration of the seabed and subsoil underlying the marginal sea adjacent to its coast and the development of such natural resources as might be found in, on or about the same, New York denies them in their entirety.

III.

As to Paragraph IV of the Plaintiff's complaint, New York admits that it claims State sovereignty as well as a proprietary interest (subject to the National sovereignty) in the seabed and subsoil of the continental shelf underlying the Atlantic Ocean more than three geographic miles seaward from ordinary low-water mark and from the outer limit of inland waters; and, insofar as the said Paragraph IV may imply that the Plaintiff is empowered to assert any proprietary interest or claim in the above described submerged lands which is adverse to New York, New York denies them in their entirety.

IV.

As to Paragraph VI of the Plaintiff's complaint, New York admits that the Plaintiff is entitled to exercise National sovereignty over the area there described, but denies that Plaintiff has any proprietary rights therein; New York further alleges that it has received no sums of money from said area for which any accounting, even if due, could be made.

V.

As to Paragraph VII of the Plaintiff's complaint, New York denies that the Plaintiff has any proprietary interest in the area of the Outer Continental Shelf which can be injured or affected by any action by New York; and denies that any action has been taken by New York which interferes with or obstructs or threatens to obstruct the orderly and effective exploration, leasing and development of any natural resources in, on or about the Outer Continental Shelf.

VI.

As to Paragraph VIII of the Plaintiff's complaint, New York denies the existence of any urgent need for prompt and final settlement of the issues raised by this proceeding, and denies that any aspect of the Plaintiff's foreign policy is involved herein.

Affirmative Defense

By way of Affirmative defense, New York alleges:

VII.

That, as successor in title to the Crown of Holland and the Crown of England or to the successors in title of said sovereigns, New York, prior to its admission to the Union, ever since its admission to the Union, and at the present time, is and has been entitled to exercise dominion and control over the exploration and development of such natural resources as may be found in, on or about the seabed and subsoil underlying the Atlantic Ocean adjacent to its coast line to the exclusion of any other political entity whatever, including the Plaintiff (subject, however, to the limits of National seaward sovereign jurisdiction of the Plaintiff); that the holding of title by New York and the power to exercise concomitant dominion and control is not prohibited by the Constitution of the United States; that the said title and power of New York has never, in fact or by operation of law, been delegated by New York to the Plaintiff; and that any attempt by the Plaintiff to assert such title or power with respect to New York constitutes a violation of the provisions of the Tenth Amendment to the Constitution of the United States and is void and of no effect.

WHEREFORE, NEW YORK prays that a decree be entered declaring the title and rights of the State of New York, both proprietary and sovereign, as against the Plaintiff, subject only to the latter's National sovereignty (which does not include any proprietary title, rights or powers), in the subsoil, seabed and natural resources underlying the Atlantic Ocean lying more than three geographical miles seaward from the ordinary low water mark and from the outer limit of inland waters to the edge of the Con-

tinental Shelf, and for such other and further relief as may be proper in the premises.

September 12, 1969.

LOUIS J. LEFKOWITZ
Attorney General of the State
of New York
Attorney for Defendant,
The State of New York

RUTH KESSLER TOCH
Solicitor General of the State
of New York

JULIUS L. SACKMAN
Assistant Attorney General of the State
of New York

The Capitol
Albany, New York 12224

SEP 1969

IN THE

Supreme Court of the United States

October Term, 1968

No. 35, Original

UNITED STATES OF AMERICA,

Plaintiff

v.

STATE OF MAINE, *et als.*,

Defendants

Answer of the State of New Hampshire

STATE OF NEW HAMPSHIRE
GEORGE S. PAPPAGIANIS
Attorney General

WILLIAM F. CANN
Deputy Attorney General

DONALD A. INGRAM
Assistant Attorney General

State House Annex
Concord, New Hampshire 03301

THE CONCORD PRESS, INC., CONCORD, N. H.

IN THE

Supreme Court of the United States

October Term, 1968

No. 35, Original

UNITED STATES OF AMERICA,

Plaintiff

v.

STATE OF MAINE, *et als.*,

Defendants

ANSWER OF THE STATE OF NEW HAMPSHIRE

Comes now the sovereign State of New Hampshire (hereinafter for brevity called "New Hampshire"), Defendant in this cause, by and through its Attorney General, George S. Pappagianis, and in answer to the allegations contained in the numbered paragraphs of the Plaintiff's complaint under the heading *Second Cause of Action*, admits, denies and alleges as follows:

I.

In answer to Paragraph I of the Plaintiff's complaint, New Hampshire alleges that such Paragraph in its entirety alleges nothing requiring answer.

II.

In answer to Paragraph II of the Plaintiff's complaint, New Hampshire denies each and every allegation in said Paragraph contained.

III.

In answer to Paragraph III of the Plaintiff's complaint, New Hampshire alleges that the provisions of the Sub-

navigat Lands Act, 12 Stat. 39 (1955), speak for themselves, and insofar as the allegations in said Paragraph may be construed to infer that prior to the effective date of the Submerged Lands Act New Hampshire was without power to exercise jurisdiction and control over the exploration of the seabed and subsoil underlying the marginal sea adjacent to its coast and the development of such natural resources as might be found in or on or along the same, New Hampshire denies them in their entirety.

IV.

In answer to Paragraph IV of the Plaintiff's complaint, the Defendant admits that it claims some interest in the seabed and subsoil of the Continental Shelf underlying the Atlantic Ocean more than three geographic miles seaward from ordinary low water mark and from the outer limit of inland waters, and insofar as the allegations in said Paragraph may be construed to infer that the Plaintiff is unconcerned in the exercise of its alleged sovereign rights in the above described submerged lands, to assert any claims with respect thereto which is adverse to New Hampshire, New Hampshire denies them in their entirety.

V.

In answer to Paragraph V of the Plaintiff's complaint, New Hampshire denies each and every allegation in said Paragraph contained, including without limitation the allegation that New Hampshire has received in lieu thereof large sums and that the State will accordingly suffer loss which could be made

VI.

In answer to Paragraph VI of the Plaintiff's complaint, New Hampshire denies that the portion of the Outer Continental Shelf [illegible] Act of June 25, 1948,

by the Plaintiff, speaks for itself; denies that any action taken or contemplated by New Hampshire interferes with or obstructs or threatens to obstruct the orderly and effective exploration, leasing and development of any natural resources in, on or about the Outer Continental Shelf; denies that any such action will cause any injury to the Plaintiff; and alleges that the statement "The United States has no other adequate remedy" is a conclusion of law and requires no answer.

VII

In answer to Paragraph VIII of the Plaintiff's complaint, New Hampshire alleges that such Paragraph, in its entirety, is argument in support of the Plaintiff's invocation of this Court's jurisdiction; denies the existence of any urgent need for prompt and final settlement of the issues raised by this proceeding; and denies that any aspect of the Plaintiff's foreign policy is involved herein.

AFFIRMATIVE DEFENSE

By way of affirmative defense, New Hampshire alleges that if sometime the United States of America and that as successor in title to certain grantors of the Crown of England, New Hampshire is now and, prior to and ever since its admission to the Union, has been entitled to exercise dominion and control over the exploration and development of such natural resources as may be found in, on or about the seabed and subsoil underlying the Atlantic Ocean adjacent to its coast line to the exclusion of any other political entity whatsoever, including the Plaintiff (subject, however, to the limits of national seaward jurisdiction established by the Plaintiff); that the power to exercise dominion and control is not prohibited to New Hampshire by the Constitution of the United States, has never in fact or by operation of law been delegated by New Hampshire to the Plaintiff, and that any attempt by the Plaintiff to

assert such power with respect to New Hampshire violates the provisions of the Tenth Amendment to the Constitution of the United States and is void and of no effect.

PRAYER

WHEREFORE, New Hampshire prays that a decree be entered that, as against New Hampshire, the Plaintiff possesses no right to exercise dominion and control over the exploration and development of such natural resources as may be found in, on and about, the seabed and subsoil underlying the Atlantic Ocean adjacent to its coast line and to the limit of national seaward jurisdiction; and for its costs.

STATE OF NEW HAMPSHIRE

GEORGE S. PAPPAGIANIS
Attorney General

WILLIAM F. CANN
Deputy Attorney General

DONALD A. INGRAM
Assistant Attorney General

September 11, 1969

CERTIFICATE OF SERVICE

I certify that in compliance with Supreme Court Rule 33(2) (a) I have this day served a copy of the foregoing answer upon the Plaintiff, United States of America, by mailing such copy by air mail, with postage prepaid, to the Solicitor General, Department of Justice, Washington, D.C. 20530, and that all parties have been served with a copy of the foregoing answer.

GEORGE S. PAPPAGIANIS
Attorney General
State of New Hampshire

Dated: September 11, 1969

COPY

SEP 15 19
JOHN F. DAVIS, C

IN THE

Supreme Court of the United States

OCTOBER TERM, 1968

No. 35, ORIGINAL

UNITED STATES OF AMERICA,
Plaintiff,

v.

STATE OF MAINE, ET AL.,
Defendants.

ANSWER OF THE STATE OF MARYLAND

FRANCIS B. BURCH,
Attorney General of Maryland,
1200 One Charles Center,
Baltimore, Maryland 21201.

September 12, 1969

The Daily Record Co., Baltimore, Md. 21203

IN THE

Supreme Court of the United States

OCTOBER TERM, 1968

NO. 35, ORIGINAL

UNITED STATES OF AMERICA,
Plaintiff,

v.

STATE OF MAINE, ET AL.,
Defendants.

ANSWER OF THE STATE OF MARYLAND

Comes now the sovereign State of Maryland (hereinafter for brevity called "Maryland"), defendant in this cause, by and through its Attorney General, Francis B. Burch, and in answer to the allegations contained in the numbered paragraphs of the Plaintiff's complaint under the heading *Eighth Cause of Action* admits, denies and alleges as follows.

I.

In answer to Paragraph I of the Plaintiff's complaint, Maryland alleges that such paragraph in its entirety alleges nothing requiring answer.

II.

In answer to Paragraph II of the Plaintiff's complaint, Maryland denies each and every allegation in said Paragraph contained.

III.

In answer to Paragraph III of the Plaintiff's complaint, Maryland alleges that the provisions of the Submerged Lands Act, 67 Stat. 29 (1953), speak for themselves, and, insofar as the allegations in said Paragraph may be construed to infer that prior to the effective date of the Submerged Lands Act Maryland was without power to exercise dominion and control over the exploration of the seabed and subsoil underlying the marginal sea adjacent to its coast and the development of such natural resources as might be found in, on or about the same, Maryland denies them in their entirety.

IV.

In answer to Paragraph IV of the Plaintiff's complaint, Maryland admits that it claims some interest in the seabed and subsoil of the Continental Shelf underlying the Atlantic Ocean more than three geographic miles seaward from ordinary low water mark and from the outer limit of inland waters; and, insofar as the allegations in said Paragraph may be construed to infer that the Plaintiff is empowered, in the exercise of its alleged sovereign rights in the above-described submerged lands, to assert any claim with respect thereto which is adverse to Maryland, Maryland denies them in their entirety.

V.

In answer to Paragraph V of the Plaintiff's complaint Maryland is without knowledge of any of the allegations contained therein.

VI.

In answer to Paragraph VI of the Plaintiff's complaint Maryland denies each and every allegation in said Paragraph contained.

VII.

In answer to Paragraph VII of the Plaintiff's complaint, Maryland alleges that the portion of the Outer Continental Shelf Lands Act, 67 Stat. 462 (1953), cited by the Plaintiff, speaks for itself; denies that any action taken by Maine and interferes with or obstructs or threatens to obstruct the orderly and effective exploration, leasing and development of any natural resources in, on or about the Outer Continental Shelf; denies that any such action will cause any injury to the Plaintiff; and alleges that the statement "The United States has no other adequate remedy" is a conclusion of law and requires no answer.

VIII.

In answer to Paragraph VIII of the Plaintiff's complaint, Maryland alleges that such Paragraph, in its entirety, is argument in support of the Plaintiff's invocation of this Court's jurisdiction; denies the existence of any urgent need for prompt and final settlement of the issues raised by this proceeding; and denies that any aspect of the Plaintiff's foreign policy is involved herein.

AFFIRMATIVE DEFENSE

By way of affirmative defense, Maryland alleges that as successor in title to Caecilius Calvert, Baron of Baltimore, grantee of King Charles I of England, by Letters Patent dated June 20, 1632, Maryland is now, and ever since its admission to the Union has been, entitled to exercise dominion and control over the exploration and development of such natural resources as may be found in, on or about the seabed and subsoil underlying the Atlantic Ocean adjacent to its coast line to the limit of ten marine leagues to the exclusion of any other political entity whatsoever,

including the Plaintiff (subject, however, to the limits of the national seaward jurisdiction established by the Plaintiff); that the power to exercise dominion and control is not prohibited to Maryland by the Constitution of the United States, has never in fact or by operation of law been delegated by Maryland to the Plaintiff; and that any attempt by the Plaintiff to assert such power with respect to Maryland violates the provisions of the Tenth Amendment to the Constitution of the United States and is void and of no effect.

PRAYER

WHEREFORE, Maryland prays that a decree be entered declaring its rights as against the Plaintiff in the subsoil, seabed, and natural resources underlying the Atlantic Ocean lying more than three geographical miles seaward from the ordinary low water mark and from the outer limit of inland waters to the edge of the continental shelf.

FRANCIS B. BURCH,
Attorney General of Maryland.

September 12, 1969.

I HEREBY CERTIFY that on this 12th day of September, 1969, a copy of the foregoing Answer was mailed, postage prepaid, to Honorable John N. Mitchell, Attorney General of the United States, and Honorable Erwin N. Griswold, Solicitor General of the United States, Department of Justice, Washington, D. C. 20530, and to the Attorney General of each of the other 12 defendant states.

FRANCIS B. BURCH,
Attorney General.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1968

No. 35, Original

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF MAINE, *et al.*,

Defendants.

ANSWER OF THE STATE OF NEW JERSEY

Comes now the sovereign State of New Jersey (hereinafter for brevity called "New Jersey"), a defendant in this cause, by and through its Attorney General, Arthur J. Sills, and in answer to the allegations contained in the numbered paragraphs of the Plaintiff's complaint under the heading *First Cause of Action*, paragraphs 1 through 4 and 6 through 8 of which are made applicable to the State of New Jersey under the heading *Sixth Cause of Action*, admits, denies and alleges as follows:

I.

In answer to Paragraph I of the Plaintiff's complaint, New Jersey alleges that such paragraph in its entirety alleges nothing requiring answer.

II

In answer to Paragraph II of the Plaintiff's complaint New Jersey denies each and every allegation in said Paragraph contained.

III

In answer to Paragraph III of the Plaintiff's complaint New Jersey alleges that the provisions of the Submerged Lands Act, 67 Stat. 29 (1953), speak for themselves and insofar as the allegations in said Paragraph may be construed to infer that prior to the effective date of the Submerged Lands Act New Jersey was without power to exercise dominion and control over the navigable waters and the seabed and subsoil underlying the marginal sea adjacent to its coast and the development of such natural resources as might be found in, on or about the same, New Jersey denies them in their entirety.

IV.

In answer to Paragraph IV of the Plaintiff's complaint New Jersey admits that it claims some interest in the seabed and subsoil of the Continental Shelf underlying the Atlantic Ocean more than three geographic miles seaward from ordinary low-water mark and from the outer limit of inland waters; and, insofar as the allegations in said Paragraph may be construed to infer that the Plaintiff is empowered, in the exercise of its alleged sovereign rights in the above described submerged lands, to assert any claim with respect thereto which is adverse to New Jersey, New Jersey denies them in their entirety.

V.

In answer to Paragraph VI of the Plaintiff's complaint New Jersey denies each and every allegation in said Paragraph contained; and, answering further, alleges that New Jersey has received no sums derived from said area for which any accounting, even if due, could be made.

#2

#11

Affirmative Defenses

control is not prohibited to New Jersey by the Constitution of the United States, has never in fact or by operation of law been delegated by New Jersey to the Plaintiff; and that any attempt by the Plaintiff to assert such power with respect to New Jersey violates the provisions of the Tenth Amendment to the Constitution of the United States and is void and of no effect.

Prayer

WHEREFORE, New Jersey prays that a decree be entered that, as against New Jersey, the Plaintiff possesses no right to exercise dominion and control over the exploration and development of such natural resources as may be found in, on and about the seabed and subsoil underlying the Atlantic Ocean adjacent to its coast line and to the limit of national seaward jurisdiction; and for its costs.

STATE OF NEW JERSEY

ARTHUR J. SILLS,
Attorney General

ELIAS ABELSON,
Assistant Attorney General.

SEP 15 1969
JOHN F. DAVIS, CLERK

Supreme Court of the United States

October Term, 1968

No. 35, Original

UNITED STATES OF AMERICA,
Plaintiff,

v.

STATE OF MAINE, ET AL.,
Defendants.

ANSWER OF THE COMMONWEALTH OF VIRGINIA

ROBERT Y. BUTTON
Attorney General of Virginia

R. D. MCILWAINE, III
First Assistant Attorney General

W. H. RYLAND
Assistant Attorney General

Supreme Court Building
Richmond, Virginia 23219

September 15, 1969

Supreme Court of the United States

October Term, 1968

No. 35, Original

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF MAINE, ET AL.,

Defendants.

ANSWER OF THE COMMONWEALTH OF VIRGINIA

Now comes the Commonwealth of Virginia, one of defendants herein, by and through her Attorney General, and in answer to the allegations contained in the numbered paragraphs of the plaintiff's complaint in the Ninth Cause of Action, answers and says:

1. For answer to Paragraph I of the complaint this defendant admits that the plaintiff seeks to invoke the jurisdiction of this Court under the provisions of law set forth in said paragraph.

2. The allegations of Paragraph II of the complaint are denied.

3. For answer to Paragraph III of the complaint this defendant says that the provisions of the Submerged Lands Act, Public Law 31 of the 83d Congress, 67 Statutes at Large 29, speak for themselves and no answer to the allegations of said paragraph is required of this defendant.

4. The allegation of Paragraph IV of the complaint is admitted.

5. The allegations of Paragraph VI of the complaint are denied.

6. For answer to Paragraph VII of the complaint this defendant says that the provisions of the Outer Continental Shelf Lands Act, Public Law 212 of the 83d Congress, 67 Statutes at Large 462, 468, speak for themselves and no answer to said allegations of Paragraph VII of the complaint is required of this defendant. The remaining allegations of said Paragraph VII are denied.

7. For answer to Paragraph VIII of the complaint this defendant admits that plaintiff seeks to invoke the original jurisdiction of this Court but denies the existence of any urgent need for prompt and final settlement of the issues sought to be raised by the complaint and denies that any aspect of the plaintiff's foreign policy is herein involved.

AFFIRMATIVE DEFENSE

By way of affirmative defense, the Commonwealth of Virginia alleges that as successor in title to certain grantees of the Crown of England, she is now, and ever since the formation of the Union has been, entitled to exercise dominion and control over the exploration and development of such natural resources as may be found in, on or about the seabed and subsoil underlying the Atlantic Ocean adjacent to her coast line to the exclusion of any other political

entity whatsoever, including the plaintiff; that the power to exercise dominion and control is not prohibited to the Commonwealth of Virginia by the Constitution of the United States, has never in fact or by operation of law been delegated by the Commonwealth of Virginia to the plaintiff; and that any attempt by the plaintiff to assert such power with respect to the Commonwealth of Virginia violates the provisions of the Tenth Amendment to the Constitution of the United States and is void and of no effect.

Now having fully answered, the Commonwealth of Virginia prays to be hence dismissed with her costs in this behalf expended.

COMMONWEALTH OF VIRGINIA

ROBERT Y. BUTTON
Attorney General of Virginia

R. D. MCILWAINE, III
First Assistant Attorney General

W. H. RYLAND
Assistant Attorney General

Supreme Court Building
Richmond, Virginia 23219

September 15, 1969

CERTIFICATE OF SERVICE

I, R. D. McIlwaine, III, an Assistant Attorney General of Virginia, a member of the Bar of the Supreme Court of the United States and one of the counsel for the Commonwealth of Virginia in the above-captioned matter, hereby certify that copies of this Answer of the Commonwealth of Virginia have been served upon counsel for the United States by depositing the same in the United States Post Office, with first-class postage prepaid, this 15th day of September, 1969, pursuant to the provisions of Rule 33(1) of the Rules of the Supreme Court of the United States, as follows: Honorable Erwin N. Griswold, Solicitor General of the United States, Department of Justice, Washington, D. C. 20530. All parties required to be served have been served.

R. D. McIlwaine III

R. D. McIlwaine, III
First Assistant Attorney General

In The

Supreme Court of the United States

OCTOBER TERM, 1968

NO. 35, ORIGINAL

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATES OF MAINE, NEW HAMPSHIRE, MASSACHUSETTS, RHODE ISLAND, NEW YORK, NEW JERSEY, DELAWARE, MARYLAND, VIRGINIA, NORTH CAROLINA, SOUTH CAROLINA, GEORGIA AND FLORIDA.

ANSWER OF DEFENDANT NORTH CAROLINA

The defendant, State of North Carolina, by Robert Morgan, the Attorney General of North Carolina, in answer to the tenth cause of action set forth in paragraph XVII of the complaint, repeating and realleging the allegations contained in paragraphs I through IV, and VI through VIII of plaintiff's first cause of action, states.

I

The allegations contained in paragraphs I, IV and VIII of the complaint as they relate to the State of North Carolina in paragraph XVII of the complaint are admitted, except that portion of paragraph VIII stating ". . . because the fundamental question in issue relates to aspects of the foreign policy of the United States . . ." which allegation, set out in quotes herein, is denied.

II

The allegations contained in paragraphs II, III, VI, and VII

of the complaint as they relate to the defendant State of North Carolina in paragraph XVII of the complaint are denied; except such portions thereof which are specifically admitted in the State of North Carolina's further answer, hereinafter set forth.

AND FOR A FURTHER ANSWER, DEFENSE AND COUNTERCLAIM, THE DEFENDANT STATE OF NORTH CAROLINA ALLEGES AND SAYS:

I

It admits that the 83rd Congress of the United States of America did on May 22, 1953, enact Public Law 31, known as the Submerged Lands Act, 67 Statutes at Large 29, and by said law, the United States did release and quitclaim all rights and claims the United States of America had to the submerged lands, subsoils, and minerals lying beneath the ocean waters of the Atlantic Ocean up to three geographic miles from the low-water mark of North Carolina's shores.

II

It denies that the United States of America acquired, or could acquire, by unilateral legislative enactment of the Congress of the United States any right, title or ownership interest to the submerged lands lying beneath the ocean waters of the Atlantic Ocean adverse to the defendant State of North Carolina's rights, title or ownership interests therein whether within three miles or more than three miles from the low-water mark of North Carolina's shores except in a manner prescribed by Article I, Section 8, Paragraph 17 of the Constitution of the United States of America.

III

To the extent that the Congress of the United States of America has attempted to acquire such right, title, or ownership interest in the submerged lands lying off North Carolina's shores adverse to defendant North Carolina's rights, title, or ownership interest by unilateral act of the Congress of the United States by the Submerged Lands Act, said acts and

law are unconstitutional in that said acts and law are in violation of Article I, Section 8, Paragraph 17; Article 4, Section 3; and the Ninth and Tenth Amendments to the Constitution of the United States of America.

IV

It admits that the 83rd Congress of the United States of America did on August 7, 1953 enact Public Law 212, known as the Outer Continental Shelf Lands Act, 67 Statutes at Large 462, and therein declared the "urgent need for further exploration and development of the oil and gas deposits of the submerged lands of the outer continental shelf" and provided that such need should be met by the issuance of mineral leases in that area by the Secretary of the Interior to private operators; and further admits that there is such "urgent need" as declared by the Congress.

V

If the Secretary of the Interior could issue mineral leases in the aforesaid area to private operators pursuant to said law, then he could do so only as an agent of the true owner of the said suberged lands, to wit: the State of North Carolina which is the owner of the said submerged lands and all minerals contained therein or thereunder.

VI

It denies that the United States of America is the owner of said submerged lands and denies that the Secretary of Interior could issue any such leases and retain the income or profits from such leases to the use and benefit of the United States of America or to the Interior Department, said income or profits from such leases, let or to be let, by the Secretary of Interior pursuant to the Outer Continental Shelf Lands Act which arise out of such activity being the property of the defendant State of North Carolina.

VII

It claims all title, right, and ownership interest in said sub-

merged lands, soils, minerals, income and profits from whatever source, as being vested in the State of North Carolina through a succession in a chain of title to such lands from the Charter of James I to the Virginia Company in 1606 to the present date.

VIII

The defendant North Carolina denies that the United States of America acquired or could acquire by unilateral legislative enactment of the Congress of the United States in enacting the Outer Continental Shelf Lands Act, aforesaid, any right, title or ownership interest to the submerged lands lying beneath the ocean waters of the Atlantic Ocean adverse to the defendant State of North Carolina's rights, title or ownership interests therein whether within three miles or more than three miles from the low-water mark of North Carolina's shores; and to the extent that the Congress of the United States of America has attempted to acquire such right, title, or ownership interets in the submerged lands lying off North Carolina's shores adverse to defendant North Carolina's rights, title, or ownership interest by unilateral act of the Congress of the United States said act is unconstitutional in that said act is in violation of Article I, Section 8, Paragraph 17; Article 4, Section 3 of the Constitution of the United States of 1787; and the Ninth and Tenth Amendments to the Constitution of the United States of America.

IX

It shows unto the Court in 1947, the General Assembly of North Carolina did enact a law declaring the ". . . eastern limit and boundary of the State of North Carolina on the Atlantic seaboard [to] have always been . . . one marine league eastward from the Atlantic seashore, measured from the extreme low water mark . . ." and so declared the eastern boundary of North Carolina to be so fixed, (Chapter 1031, 1947 Session Laws of North Carolina, N. C. Gen. Stat. Section 141-6); and further shows that the General Assembly was acting pursuant

to Article I, Section 24, of the N. C. Constitution of 1868 which declared that the "limits and boundaries of the State shall be and remain as they now are."

X

To the extent, if any, of any inconsistency between the laws enacted by the General Assembly and the North Carolina Constitution; and any inconsistency between the laws of North Carolina and of the United States of America, said inconsistency can only be resolved by a judicial determination of the original Eastern boundary of defendant North Carolina at the time of its entry into the Federal Union in 1789.

XI

Such unilateral declarations by legislatures, whether Federal or State, are not conclusive of the matter of the State's offshore boundary nor binding on either plaintiff or defendant in this Cause; and, further alleges that rights to property beneath the Atlantic Ocean can be made only by a determination of the boundary of the State at the time of its entry into the Federal Union together with a determination of whether subsequent to that date the State has ceded any of its property rights to the Federal government in the manner prescribed in Article I, Section 8, Paragraph 17, of the Constitution of the United States of America.

XII

It has never ceded any property rights it had in the lands underlying the Atlantic Ocean at the time of its entry into the Federal Union in 1789, to the United States of America; nor has the United States acquired any such property rights as had by North Carolina since that date, in a manner prescribed by the Constitution of the United States of America.

WHEREFORE, defendant, North Carolina, prays the Court for a determination of its proper historic eastern boundary which existed at the time of its entry into the Federal Union, and for judgment that the defendant North Carolina presently

is the owner of such submerged lands, subsoil, and mineral rights, and has the right to receive the profits and income, if any, so derived from the aforesaid lands within its historic boundary; and having fully answered the complaint of the plaintiff, that defendant have such other and further relief as is deemed proper, and that the costs of this action be taxed against the plaintiff, United States of America.

This the 11th day of September, 1969.

ROBERT MORGAN
Attorney General

Jean A. Benoy
Deputy Attorney General

Thomas J. Bolch
Special Assistant

FILE COPY

Office Supreme Court,
FILED
SEP 15
JOHN F. DAVIS, CLERK

IN THE

Supreme Court of The United States

October Term, 1968

No. 35, Original

UNITED STATES OF AMERICA,
Plaintiff,

v.

STATE OF MAINE, ET AL.,
Defendants.

ANSWER OF THE STATE OF FLORIDA

STATE OF FLORIDA
Earl Faircloth
Attorney General

T. T. Turnbull
Chief Trial Counsel
State of Florida

The Capitol
Tallahassee, Florida 32304

IN THE

Supreme Court of The United States

No. 35, Original

UNITED STATES OF AMERICA, Plaintiff,

v.

STATE OF MAINE, and others
(including the State of Florida), Defendants.

ANSWER OF THE STATE OF FLORIDA

I

The jurisdiction of this Court has been established and no answer is made to paragraph I of the complaint.

II

The State of Florida does not deny that the United States is entitled to exercise a portion of its sovereign rights over the seabed and subsoil underlying the Atlantic Ocean to the outer edge of the continental shelf, but does deny that this is an exclusive rights, insofar as Florida is concerned, from the low-water mark, outward in the Atlantic Ocean for a distance of only three (3) geographic miles, as will more fully appear in paragraph III.

III

Insofar as the ultimate and legal facts are alleged in paragraph III, the same are admitted. However, the State of Florida positively avers that in the case of *United States v. Florida*, 363 U.S. 121; 80 S. Ct. 1026; 4 L. Ed 2d 1096;

decided May 23, 1960 (the amended complaint having been filed in November, 1957), this Court has sustained and upheld Florida's historic boundary on the Atlantic Coast, as well as the Gulf Coast, such boundary having been approved by the Congress upon Florida's re-entry into the Union in 1868. The boundary approved by this Court for the State of Florida is contained in Article I of the Constitution of 1868 and is completely stated from that document as follows:

> "The boundaries of the State of Florida shall be as follows: Commencing at the mouth of the river Perdido; from thence up the middle of said river to where it intersects the south boundary line of the State of Alabama, and the thirty-first degree of north latitude; then due east to the Chattahoochee river; then down the middle of said river to the Atlantic Ocean; thence southeastwardly along the coast to the edge of the Gulf Stream and Florida Reefs to and including the Tortugas Islands; thence northeastwardly to a point three leagues from the mainland; thence northwestwardly three leagues from the land, to a point west of the mouth of the Perdido river; thence to the place of beginning."

IV

Florida claims, by virtue of its historic boundaries, to the Gulf Stream, wherever the same may be located, recognizing however that the Gulf Stream is a variable boundary, but variable boundaries are not frowned upon by the law when such boundaries may be accurately determined from time to time, and asserts further that by reason of the decision in *United States v. Florida, supra,* this is an established and confirmed boundary and therefore denies the allegations of paragraph IV of the complaint.

V

Answering paragraph VI of the complaint: Paragraph VI of the complaint is denied and Florida asserts that she does not now nor has she ever asserted any claim but its historic and constitutional boundaries.

VI

Answering paragraph VII of the complaint: The allegations of paragraph VII are denied, except insofar as the statement of the law is concerned, which statement is admitted to be true. Florida avers that there are no oil and gas leases on the Atlantic Coast of Florida and none are now proposed to be, even within Florida's historic and legally constituted boundaries.

VII

Answering paragraph VIII of the complaint: Paragraph VIII of the complaint requires no answer. Florida avers that the United States, in the case of *U.S. v. Florida, supra*, has already brought Florida before this Court and this Court has already determined Florida's boundary.

VIII

Answering paragraph XX of the complaint: Relating to the term "Atlantic Ocean," Florida denies that this term includes the Straits of Florida and asserts that geographers, navigators and scientists generally have determined and historically have included the Straits of Florida as a part of the Gulf of Mexico. Florida asserts that there is doubt as to the location of the confluence of the Gulf of Mexico and the Atlantic Ocean and avers that this confluence is located at a point on the landmast of Florida approximating the location of Palm Beach, Florida, extending therefrom in a southeasterly direction. Thereupon, Florida further alleges that all water areas surrounding Florida southerly from this point, including its Keys and its insular possessions, also to include the Marquesas and Dry Tortugas, lie within the confines of the Gulf of Mexico.

IX

There is no controversy between the State of Florida and the United States of America in this cause that has not already been firmly and positively determined by this Court. Admittedly, there are areas which under the case of *United States v. Florida, supra*, need positive delineation, which may

well be done not in this cause, but in the original case of which this Court has retained jurisdiction.

WHEREFORE, Florida prays dismissal from this cause.

DATED this 12th day of September, 1969.

Respectfully submitted,

EARL FAIRCLOTH
Attorney General

T.T. Turnbull
Chief Trial Counsel

CERTIFICATE OF SERVICE

I certify that in compliance with Supreme Court Rules 34 (5) and 50 (2), I have this day served a copy of the foregoing Answer of the State of Florida on the Honorable John N. Mitchell, Attorney General of the United States, and Erwin N. Griswold, Solicitor General of the United States and on all of the parties to this action.

Dated this 12th day of September, 1969.

T.T. TURNBULL
Chief Trial Counsel
Attorney General's Office
State of Florida

No. 35, Original.

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1968.

UNITED STATES OF AMERICA,

Plaintiff

v.

STATE OF MAINE, ET ALS.

Answer of the State of Delaware.

Comes now the sovereign State of Delaware, a defendant in this cause, by and through its Attorney General, David P. Buckson, and in answer to the allegations contained in the numbered paragraphs of the Plaintiff's complaint under the heading *Seventh Cause of Action,* admits, denies and alleges as follows:

I.

In answer to Paragraph I of the Plaintiff's complaint, Delaware alleges that such paragraph in its entirety alleges nothing requiring answer.

II.

In answer to Paragraph II of the Plaintiff's complaint, Delaware denies each and every allegation in said Paragraph contained.

III.

In answer to Paragraph III of the Plaintiff's complaint, Delaware alleges that insofar as the allegations in Paragraph III may be construed to imply that prior to the effective date of the Submerged Lands Act, 67 Stat. 29 (1953), Delaware was without power to exercise dominion and control over the exploration of the seabed and subsoil underlying the marginal sea adjacent to its coast and the development of such natural resources as might be found in, on or about the same, Delaware denies them in their entirety.

IV.

In answer to Paragraph IV of the Plaintiff's complaint, Delaware admits that it claims some interest in the seabed and subsoil of the Continental Shelf underlying the Atlantic Ocean more than three geographic miles seaward from ordinary low-water mark and from the outer limit of inland waters; and, insofar as the allegations in said paragraph may be construed to imply that the Plaintiff is empowered, in the exercise of its alleged sovereign rights in the above described submerged lands, to assert any claim with respect thereto which is adverse to Delaware, Delaware denies them in their entirety.

V.

In answer to Paragraph VI of the Plaintiff's complaint, Delaware denies each and every allegation in said paragraph contained; and, answering further, alleges that Delaware has received no sums derived from said area for which any accounting, even if due, could be made.

VI.

In answer to Paragraph VII of the Plaintiff's complaint, Delaware alleges that the portion of the Outer Con-

tinental Shelf Lands Act, 67 Stat. 462 (1953), cited by the Plaintiff, speaks for itself; denies that any action taken by Delaware interferes with or obstructs or threatens to obstruct the orderly and effective exploration, leasing and development of any natural resources in, on or about the Outer Continental Shelf; denies that such action will cause any injury to the Plaintiff; and alleges that the statement "The United States has no other adequate remedy" is a conclusion of law and requires no answer.

VII.

In answer to Paragraph VIII of the Plaintiff's complaint, Delaware alleges that such paragraph, in its entirety, is argument in support of the Plaintiff's invocation of this Court's jurisdiction; denies the existence of any urgent need for prompt and final settlement of the issues raised by this proceeding, and denies that any aspect of the Plaintiff's foreign policy is involved herein.

AFFIRMATIVE DEFENSE.

By way of affirmative defense, Delaware alleges that as successor in title to certain grantees of the Crown of England, Delaware is now, and ever since its formation as a separate colony, entitled to exercise dominion and control over the exploration and development of such natural resources as may be found in, on or about the seabed and subsoil underlying the Atlantic Ocean adjacent to its coast line to the exclusion of any other political entity whatsoever, including the Plaintiff (subject, however, to the limits of national seaward jurisdiction established by the Plaintiff); that the power to exercise dominion and control is not prohibited to Delaware by the Constitution of the United States, has never in fact or by operation of law been delegated by Delaware to the Plaintiff; and that any

attempt by the Plaintiff to assert such power with respect to Delaware violates the provisions of the Tenth Amendment to the Constitution of the United States and is void and of no effect.

PRAYER.

WHEREFORE, Delaware prays that the Plaintiff's complaint be dismissed with prejudice, and for its costs.

STATE OF DELAWARE,

DAVID P. BUCKSON,
Attorney General,
FLETCHER E. CAMPBELL, JR.,
Deputy Attorney General.

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FILED
SEP 16 1968
JOHN F. DAVIS, CLERK

No. 35. Original

Supreme Court of the United States

OCTOBER TERM, 1968

UNITED STATES OF AMERICA, PLAINTIFF,

versus

STATE OF MAINE, ET AL.

ANSWER OF THE STATE OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA,
DANIEL R. McLEOD,
Attorney General,

EDWARD B. LATIMER,
Assistant Attorney General,
Hampton State Office Bldg.,
P. O. Box 11537,
Columbia, S. C. 29211.

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No. 35. Original

Supreme Court of the United States

OCTOBER TERM, 1968

UNITED STATES OF AMERICA, PLAINTIFF,

versus

STATE OF MAINE, ET AL.

ANSWER OF THE STATE OF SOUTH CAROLINA

Comes now the sovereign State of South Carolina (hereinafter for brevity called "South Carolina"), a defendant in this cause, by and through its Attorney General, Daniel B. McLeod, and in answer to the allegations contained in the numbered paragraphs of the Plaintiff's complaint under the heading **Second Cause of Action**, admits, denies and alleges as follows:

I

In answer to Paragraph I of the Plaintiff's complaint, South Carolina alleges that such paragraph in its entirety alleges nothing requiring answer.

II

In answer to Paragraph II of the Plaintiff's complaint, South Carolina denies each and every allegation in said Paragraph contained.

III

In answer to Paragraph III of the Plaintiff's complaint, South Carolina alleges that the provisions of the Submerged Lands Act, 67 Stat. 29 (1953), speak for themselves, and, insofar as the allegations in said Paragraph may be construed to infer that prior to the effective date of the Submerged Lands Act South Carolina was without power to exercise dominion and control over the exploration of the seabed and subsoil underlying the marginal sea adjacent to its coast and the development of such natural resources as might be found in, on or about the same, South Carolina denies them in their entirety.

IV

In answer to Paragraph IV of the Plaintiff's complaint, South Carolina admits that it claims some interest in the seabed and subsoil of the Continental Shelf underlying the Atlantic Ocean more than three geographic miles seaward from ordinary low-water mark and from the outer limit of inland waters; and, insofar as the allegations in said Paragraph may be construed to infer that the Plaintiff is empowered, in the exercise of its alleged sovereign rights in the above described submerged lands, to assert any claim with respect thereto which is adverse to South Carolina, South Carolina denies them in their entirety.

V

In answer to Paragraph VI of the Plaintiff's complaint, South Carolina denies each and every allegation in

said Paragraph contained; and, answering further, alleges that South Carolina has received no sums derived from said area for which any accounting, even if due, could be made.

VI

In answer to Paragraph VII of the Plaintiff's complaint, South Carolina alleges that the portion of the Outer Continental Shelf Lands Act, 67 Stat. 462 (1953), cited by the plaintiff, speaks for itself; denies that any action taken by South Carolina interferes with or obstructs or threatens to obstruct the orderly and effective exploration, leasing and development of any natural resources in, on or about the Outer Continental Shelf; denies that any such action will cause any injury to the Plaintiff; and alleges that the statement "The United States has no other adequate remedy" is a conclusion of law and requires no answer.

VII

In answer to Paragraph VIII of the Plaintiff's complaint, South Carolina alleges that such paragraph, in its entirety, is argument in support of the Plaintiff's invocation of this Court's jurisdiction; denies the existence of any urgent need for prompt and final settlement of the issues raised by this proceeding; and denies that any aspect of the Plaintiff's foreign policy is involved herein.

Comes now the sovereign State of South Carolina (hereinafter for brevity called "South Carolina"), a defendant in this cause, by and through its Attorney General, Daniel R. McLeod, and in answer to the allegations contained in the numbered paragraphs of the Plaintiff's complaint under the heading **Second Cause of Action**, admits, denies and alleges as follows:

In answer to Paragraph XVIII of the Plaintiff's complaint, South Carolina alleges that such paragraph in its entirety alleges nothing requiring answer.

AFFIRMATIVE DEFENSE

By way of affirmative defense, South Carolina alleges that as successor in title to certain grants and grantees of the Crown of England, South Carolina is now, and ever since its admission to the Union has been, entitled to exercise dominion and control over the exploration and development of such natural resources as may be found in, on or about the seabed and subsoil underlying the Atlantic Ocean adjacent to its coast line to the exclusion of any other political entity whatsoever, including the Plaintiff (subject, however, to the limits of national seaward jurisdiction established by the Plaintiff); that the power to exercise dominion and control is not prohibited to South Carolina by the Constitution of the United States, has never in fact or by operation of law been delegated by South Carolina to the Plaintiff; and that any attempt by the Plaintiff to assert such power with respect to South Carolina violates the provisions of the Tenth Amendment to the Constitution of the United States and is void and of no effect.

WHEREFORE, South Carolina prays that the Plaintiff's complaint be dismissed with prejudice, and for its costs.

THE STATE OF SOUTH CAROLINA,

/s/ DANIEL R. McLEOD,
Attorney General,

/s/ EDWARD B. LATIMER,
Assistant Attorney General.

Hampton State Office Building,
P. O. Box 11537,
Columbia, South Carolina 29211.
15 September, 1969.

CERTIFICATION

I hereby certify that copies of this Answer have been served upon counsel for all parties by depositing the same in the United States Post Office, with first-class postage prepaid, this date, pursuant to the provisions of the Rules of the Supreme Court of the United States, as follows: Honorable John F. Davis, Clerk, U. S. Supreme Court, Washington, D. C., 20543; Honorable John N. Mitchell, Attorney General of the United States, Department of Justice, Washington, D. C. 20530; Honorable Erwin N. Griswold, Solicitor General of the United States, Justice Department, Washington, D. C. 20530; Honorable James S. Erwin, Attorney General of Maine, Department of the Attorney General, Augusta, Maine 04330; Honorable Arthur J. Sills, Attorney General of New Jersey, State Capitol, Trenton, New Jersey; Honorable David P. Buckson, Attorney General of Delaware, Kirk Building, P. O. Box 752, Dover, Delaware 19901; Honorable Arthur K. Bolton, Attorney General of Georgia, 132 State Judicial Building, Atlanta, Georgia, 30334; Honorable Francis B. Burch, Attorney General of Maryland, One Charles Center, Baltimore, Maryland 21201; Honorable Robert H. Quinn, Attorney General of Massachusetts, State House, Boston, Massachusetts 02133; Honorable Robert Morgan, Attorney General of North Carolina, Justice Building, Raleigh, North Carolina 27602; Honorable Louis J. Lefkowitz, Attorney General of New York, State Capitol, Albany, New York 12225; Honorable Robert Y. Button, Attorney General of Virginia, Supreme Court Building, Richmond, Virginia 23219; Honorable Herbert F. DeSimone, Attorney General of Rhode Island, Providence County Court House, Providence, Rhode Island 02903; Honorable Earl Faircloth, Attorney General of Florida, State Capitol, Tallahassee, Florida 32304; and Honorable George S. Pappa-

gianis, Attorney General of New Hampshire, State House Annex, Concord, New Hampshire 03301.

STATE OF SOUTH CAROLINA,

DANIEL R. McLEOD,
Attorney General,

EDWARD B. LATIMER,
Assistant Attorney General,
Hampton State Office Bldg.,
P. O. Box 11537,
Columbia, S. C. 29211.

15 September, 1969.

FILE COPY

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No. 35, Original

In the
Supreme Court of the United States

OCTOBER TERM, 1968

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATE OF MAINE, ET ALS.

Answer of the State of Maine

STATE OF MAINE,
JAMES S. ERWIN,
Attorney General,
ROBERT G. FULLER, JR.,
Assistant Attorney General,
State House,
Augusta, Maine 04330

No. 35, Original

In the Supreme Court of the United States

OCTOBER TERM, 1968

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATE OF MAINE, ET ALS.

Answer of the State of Maine

Comes now the sovereign State of Maine (hereinafter for brevity called "Maine"), principal defendant in this cause, by and through its Attorney General, James S. Erwin, and in answer to the allegations contained in the numbered paragraphs of the Plaintiff's complaint under the heading *First Cause of Action*, admits, denies and alleges as follows:

I.

In answer to Paragraph I of the Plaintiff's complaint, Maine alleges that such paragraph in its entirety alleges nothing requiring answer.

II.

In answer to Paragraph II of the Plaintiff's complaint, Maine denies each and every allegation in said Paragraph contained.

III.

In answer to Paragraph III of the Plaintiff's complaint, Maine alleges that the provisions of the Sub-

merged Lands Act, 67 Stat. 29 (1953), speak for themselves, and, insofar as the allegations in said Paragraph may be construed to infer that prior to the effective date of the Submerged Lands Act Maine was without power to exercise dominion and control over the exploration of the seabed and subsoil underlying the marginal sea adjacent to its coast and the development of such natural resources as might be found in, on or about the same, Maine denies them in their entirety.

IV.

In answer to Paragraph IV of the Plaintiff's complaint, Maine admits that it claims some interest in the seabed and subsoil of the Continental Shelf underlying the Atlantic Ocean more than three geographic miles seaward from ordinary low-water mark and from the outer limit of inland waters; and, insofar as the allegations in said Paragraph may be construed to infer that the Plaintiff is empowered, in the exercise of its alleged sovereign rights in the above described submerged lands, to assert any claim with respect thereto which is adverse to Maine, Maine denies them in their entirety.

V.

In answer to Paragraph V of the Plaintiff's complaint, Maine denies each and every allegation therein contained; but alleges that it has granted to a private corporation a conditional license to explore for minerals, oil and gas in, and to take the same from, certain lands submerged in the Atlantic Ocean, some portion of which lands may lie more than three geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters.

VI.

In answer to Paragraph VI of the Plaintiff's complaint, Maine denies each and every allegation in said Paragraph contained; and, answering further, alleges

that Maine has received no sums derived from said area for which any accounting, even if due, could be made.

VII.

In answer to Paragraph VII of the Plaintiff's complaint, Maine alleges that the portion of the Outer Continental Shelf Lands Act, 67 Stat. 462 (1953), cited by the plaintiff, speaks for itself; denies that any action taken by Maine interferes with or obstructs or threatens to obstruct the orderly and effective exploration, leasing and development of any natural resources in, on or about the Outer Continental Shelf; denies that any such action will cause any injury to the Plaintiff; and alleges that the statement "The United States has no other adequate remedy" is a conclusion of law and requires no answer.

VIII.

In answer to Paragraph VIII of the Plaintiff's complaint, Maine alleges that such paragraph, in its entirety, is argument in support of the Plaintiff's invocation of this Court's jurisdiction; denies the existence of any urgent need for prompt and final settlement of the issues raised by this proceeding, and denies that any aspect of the Plaintiff's foreign policy is involved herein.

AFFIRMATIVE DEFENSE

By way of affirmative defense, Maine alleges that as successor in title to certain grantees of the Crown of England, Maine is now, and ever since its admission to the Union has been, entitled to exercise dominion and control over the exploration and development of such natural resources as may be found in, on or about the seabed and subsoil underlying the Atlantic Ocean adjacent to its coast line to the exclusion of any other political entity whatsoever, including the Plaintiff (subject, however, to the limits of national seaward jurisdiction established by the Plaintiff); that the

power to exercise dominion and control is not prohibited to Maine by the Constitution of the United States, has never in fact or by operation of law been delegated by Maine to the Plaintiff; and that any attempt by the Plaintiff to assert such power with respect to Maine violates the provisions of the Tenth Amendment to the Constitution of the United States and is void and of no effect.

PRAYER

WHEREFORE, Maine prays that a decree be entered that, as against Maine, the Plaintiff possesses no right to exercise dominion and control over the exploration and development of such natural resources as may be found in, on and about the sea bed and subsoil underlying the Atlantic Ocean adjacent to its coastline and to the limit of national seaward jurisdiction; and for its cost.

STATE OF MAINE,
JAMES S. ERWIN,
Attorney General

ROBERT G. FULLER, JR.,
Assistant Attorney General

Dated: September 15, 1969

CERTIFICATE OF SERVICE

I certify that in compliance with Supreme Court Rule 33(2) (a) I have this day served a copy of the foregoing answer upon the plaintiff, United States of America, by mailing such copy by air mail, with postage prepaid, to the Solicitor General, Department of Justice, Washington, D. C. 20530.

ROBERT G. FULLER, JR.,
Assistant Attorney General
State of Maine.

Dated: September 15, 1969

FILE COPY

SEP 15 1969

JOHN F. DAVIS, CLERK

In the

Supreme Court of the United States

OCTOBER TERM, 1968

No. 35, Original

UNITED STATES OF AMERICA,
PLAINTIFF,

v.

STATE OF MAINE, *et als.*

ANSWER OF THE STATE OF RHODE ISLAND

STATE OF RHODE ISLAND
HERBERT F. DE SIMONE
Attorney General
W. SLATER ALLEN, JR.
Assistant Attorney General
Providence County Court House
250 Benefit Street
Providence, Rhode Island

Blanchard Press, Inc., Boston, Mass. — Law Printers

In the
Supreme Court of the United States

OCTOBER TERM, 1968

No. 35, Original

UNITED STATES OF AMERICA,
PLAINTIFF,

v.

STATE OF MAINE, *et als.*

Answer of the State of Rhode Island

Now comes the State of Rhode Island and Providence Plantations (hereinafter for brevity "Rhode Island"), defendant in the above entitled matter, acting by and through its Attorney General, Herbert F. De Simone and answers the allegations contained in the fourth cause of action in the complaint as follows:

I

First Defense

1. Rhode Island admits that the complaint, by Paragraph I, sufficiently invokes the subject matter jurisdiction of this Honorable Court.

2. Rhode Island denies each and every allegation contained in paragraph II of the complaint.

3. Rhode Island admits the enactment and approval of Public Law 31, 83rd Congress, known as the Submerged Lands Act, 67 stat. 29 (1953); Rhode Island denies that by such enactment and approval, P.L. 31, 83rd Congress had the legal effect alleged in Paragraph III of the complaint, except as to the release of claims alleged in said paragraph. Rhode Island further answers that to the extent P.L. 31, 83rd Congress purports on its face to reserve to the United States of America title and ownership of Submerged Lands said Act is void as repugnant to the United States Constitution, Articles of Amendment, Article X.

4. Rhode Island admits the allegations contained in Paragraph IV of the complaint except that to the extent the allegations of Paragraph IV of the complaint may be construed to infer that the plaintiff is empowered to assert any claim in the above described submerged lands which is adverse to Rhode Island, denies them in their entirety.

5. Rhode Island denies each and every allegation contained in Paragraph VI of the complaint.

6. Rhode Island admits the enactment and approval of P.L. 212, 83rd Congress known as the Outer Continental Shelf Lands Act, 67 stat. 462, 468 and further answers that said act speaks for itself.

Rhode Island denies that it is unlawfully interfering with or will unlawfully obstruct the plaintiff as alleged in Paragraph VII of the complaint, it denies that it unlawfully threatens to obstruct or interfere with the orderly and effective exploration, leasing and development of mineral resources as alleged in said paragraph and denies that a threatened action of Rhode Island wiill damage the plantiff.

7. In answer to Paragraph VIII of the plaintiff's com-

plaint, Rhode Island alleges that such paragraph, in its entirety, is argument in support of the plaintiff's invocattion of this Court's jurisdiction, denies the existence of any urgent need for prompt and final settlement of the issues raised by this proceeding, and denies that any aspect of the plaintiff's fooreign policy is involved herein.

II

Second Defense

Rhode Island alleges, an as affirmative defense, that on March 14, 1643 and on July 8, 1663 the then King of England granted to diverse persons (constituting by those grants the body politic then and thereafter named Rhode Island and Providence Plantations) charters; granted to Rhode Island, military and proprietary autonomy over the abutting portion of the Atlantic Ocean. Rhode Island further alleges that by those charters, Rhode Island was thereby authorized to defend and safeguard itself by force of arms, as well as by sea as by land.

Rhode Island further alleges that the power and authority hereinabove affirmatively alleged was not so delimited by its ratification of the Constitution of the United States as to exclude Rhode Island from domimium and ownership over the submerged lands of the Atlantic Ocean adjacent to it.

Further, Rhode Island alleges that it has never in fact or by operation of law delegated or granted to the plaintiff, domimium or ownership over the submerged lands of the Atlantic Ocean adjacent to Rhode Island; any act of Congress arrogating to the plaintiff such submerged lands is void as repugnant to United States Constitution, Articles of Amendment, Article X.

III

Third Defense

Rhode Island alleges, as an affirmative defense, that on May 4, 1776 it declared itself independent of the Crown of England and thereafter exercised wholly and entirely sovereign imperium and dominium over the submerged lands and waters of the Atlantic Ocean adjacent to it. Rhode Island further alleges that it never thereafter in fact or by operation of law granted or delegated to the plaintiff dominium or ownership over the submerged lands of the Atlantic Ocean adjacent to it. Rhode Island further alleges that an act of Congress arrogating to the United States dominium or ownership over the submerged lands of the Atlantic Ocean adjacent to Rhode Island is void as repugnant to United States Constitution, Articles of Amendment, Article X.

Prayer

Wherefore, Rhode Island prays that a decree be entered declaring that Rhode Island have the rights of ownership and control of sub-soil, sea bed and natural resources underlying the Atlantic Ocean within and without any point three (3) geographical miles seaward from the ordinary low water mark, subject only to reasonable regulation by the plaintiff in the exercise of its rights of regulating intererstate and foreign commerce, the waging of war, the making of treaties, and the defense of the shores.

STATE OF RHODE ISLAND
(s) HERBERT F. DE SIMONE
Attorney General
(s) F. DE SIMONE
(s) W. SLATER ALLEN, JR.
Assistant Attorney General

SEP 22 1
JOHN F. DAVIS,

IN THE

Supreme Court of the United States

October Term 1968

No. 35 Original

UNITED STATES OF AMERICA,
Plaintiff,

v.

STATE OF MAINE, et al.,
Defendants.

DEFENSES AND ANSWER OF THE STATE OF GEORGIA

ARTHUR K. BOLTON
Attorney General

HAROLD N. HILL, JR.
Exec. Assistant Attorney General

ALFRED L. EVANS, JR.
Assistant Attorney General

LARRY D. RUSKAUP
Assistant Attorney General

IN THE

Supreme Court of the United States

October Term 1968

No. 35 Original

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF MAINE, et al.,

Defendants.

DEFENSES AND ANSWER OF THE STATE OF GEORGIA

COMES NOW the State of Georgia, a defendant in the above styled proceeding, and makes this its defenses and answer to the complaint as follows:

FIRST DEFENSE

The State of Georgia moves that the complaint be dismissed as to itself under Rule 12 of the Federal Rules of Civil Procedure, or, in the alternative that it be dropped as a party-defendant under Rule 21 of the Federal Rules of Civil Procedure for want of jurisdiction, on the ground that the complaint fails to allege any facts showing the existence of a case or controversy within the meaning of Article III, Section 2 of the Constitution of the United States between plaintiff and this defendant.

SECOND DEFENSE

The State of Georgia moves that the complaint be dismissed as to itself under Rule 12 of the Federal Rules of Civil Procedure, or, in the alternative that it be dropped as a party-defendant under Rule 21 of the Federal Rules of Civil Procedure, for failure to state a claim against this defendant upon which relief can be granted.

THIRD DEFENSE

The State of Georgia answers plaintiff's complaint as follows:

1.

Paragraph I of the complaint sets forth legal assertions requiring no answer, but this defendant denies that jurisdiction is properly invoked with respect to the State of Georgia.

2.

The allegations of Paragraph II of the complaint are denied.

3.

Paragraph III of the complaint consists of legal conclusions requiring no answer, but this defendant denies that it was without power to exercise dominion and control over the exploration of the seabed and subsoil underlying the marginal sea adjacent to its coast or in the development of such natural resources as might be found therein before the effective date of 67 Stat. 29 (1953).

4.

The allegations of Paragraph IV of the complaint are admitted.

5.

The allegations of Paragraph V of the complaint are not asserted against the State of Georgia.

6.

The allegations of Paragraph VI of the complaint are denied, and in further answer thereto this defendant shows the Court that it has received no sums from exploration or exploitation of the described area of seabed and subsoil.

7.

In answer to Paragraph VII of the complaint this defendant admits the first sentence thereof but denies each and every other allegation of such paragraph.

8.

The allegations of Paragraph VIII of the complaint are denied.

FOURTH DEFENSE

Answering the complaint further, the State of Georgia shows the Court that as successor in title to certain grantees of the Crown of England, it is now, and at all times since its declaration of independence from the Crown of England has been, entitled to exercise dominion and control over the exploration and development of such natural resources as may be found in, on or about the seabed and subsoil underlying the Atlantic Ocean adjacent to its coast line to the exclusion of any other political entity whatsoever, including plaintiff; that the power to exercise such dominion and control respecting seabed and subsoil is not prohibited to the State of Georgia by the Constitution of the United States, has never been sold, granted or transferred by

the State of Georgia to the plaintiff, and is reserved to the State of Georgia by the Tenth Amendment to the Constitution of the United States.

FIFTH DEFENSE

Answering the complaint further the State of Georgia shows that if by virtue of its adoption of the Constitution or membership in the Union, it did in any way relinquish, grant or transfer to plaintiff its right to exercise dominion and control over the exploration and development of such natural resources as might be found in, on or about the seabed and subsoil underlying the Atlantic Ocean adjacent to its coast line, such rights of dominion were reacquired by the 1802 cession of the United States to the State of Georgia of whatever claim, right or title the United States may have had in such soil or lands, such cession being a consideration and condition of Georgia's cession to the United States of those lands lying west of its present boundary with the State of Alabama.

WHEREFORE, having fully answered and presented this its defenses and answer to plaintiffs' complaint the State of Georgia prays that the complaint be dismissed and the prayers denied with respect to the State of Georgia.

ARTHUR K. BOLTON
Attorney General

HAROLD N. HILL, JR.
Exec. Assistant Attorney General

ALFRED L. EVANS
Assistant Attorney General

LARRY D. RUSKAUP
Assistant Attorney General

Please address all Communications to:

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No. 35, Original

In the Supreme Court of the United States

October Term, 1968

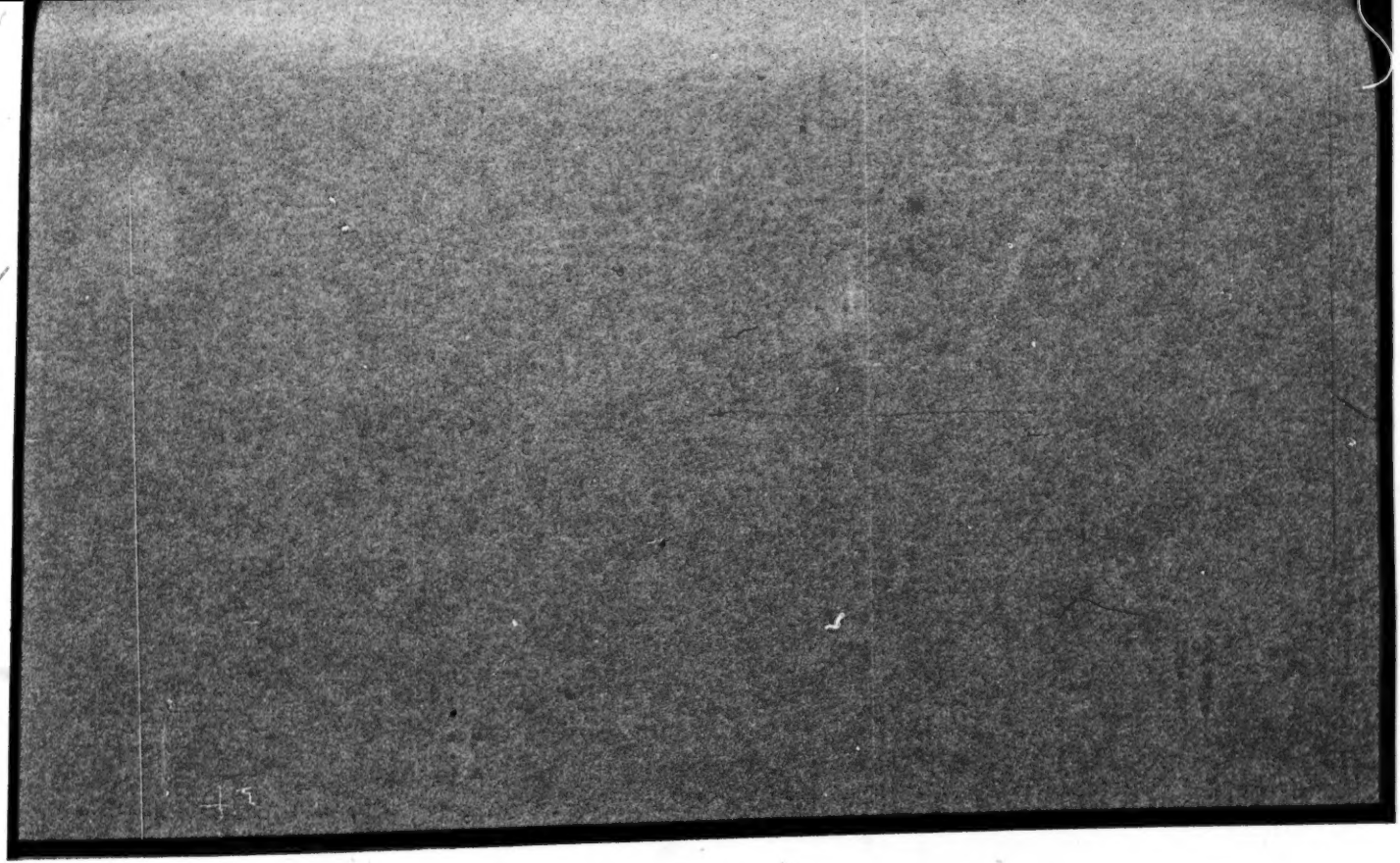
United States of America, plaintiff

v.

States of Maine, New Hampshire, Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Florida

Answer of the Commonwealth of Massachusetts

Robert H. Quinn
Attorney General
Thomas J. Crowley
Assistant Attorney General
Harold Putnam
Assistant Attorney General



In the Supreme Court of the United States

OCTOBER TERM, 1968

No. 35, ORIGINAL

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATES OF MAINE, NEW HAMPSHIRE, MASSACHUSETTS, RHODE ISLAND, NEW YORK, NEW JERSEY, DELAWARE MARYLAND, VIRGINIA, NORTH CAROLINA, SOUTH CAROLINA, GEORGIA AND FLORIDA

ANSWER OF THE COMMONWEALTH OF MASSACHUSETTS

Now comes the Commonwealth of Massachusetts (hereinafter called "Massachusetts"), a defendant in this cause, by and through its Attorney General, Robert H. Quinn, and in answer to the allegations contained in the Plaintiff's complaint under the heading *Third Cause of Action,* paragraph X, admits, denies and alleges as follows:

I.

In answer to Paragraph I of the Plaintiff's complaint, Massachusetts alleges that such paragraph alleges nothing requiring answer.

II.

In answer to Paragraph II of the Plaintiff's complaint,

Massachusetts denies each and every allegation in said Paragraph in its entirety.

III.

In answer to Paragraph III of the Plaintiff's complaint, Massachusetts neither admits nor denies the allegations of said Paragraph but alleges that the provisions of Public Law 31 of the 83rd Congress, known as the Submerged Lands Act, 67 Statutes at Large (1953), speak for themselves.

IV.

In answer to Paragraph IV of the Plaintiff's complaint, Massachusetts admits that it claims some right, title or interest in the seabed and subsoil of the continental shelf underlying the Atlantic Ocean more than three (3) geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters; and, insofar as the allegations in said Paragraph may be construed to infer that the Plaintiff is empowered in the exercise of its alleged sovereign rights in such described submerged lands, to assert any claim with respect thereto which is adverse to Massachusetts, Massachusetts denies them in their entirety.

VI.

In answer to Paragraph VI of the Plaintiff's complaint, Massachusetts denies each and every allegation in said Paragraph in its entirety, and further answering, states that it has granted no rights in the area lying more than three (3) geographical miles seaward from the ordinary low-water mark and from the outer limit of inland waters

on the coast, and has received no sums for which any accounting could be made.

VII.

In answer to Paragraph VII of the Plaintiff's complaint, Massachusetts alleges the provisions of Public Law 212 of the 83rd Congress, known as the Outer Continental Shelf Lands Act, 67 Statutes at Large 462, 468 (1953), speak for themselves, and further answering, Massachusetts denies that it, by its conduct or claims is interfering with and obstructing, or threatens to obstruct the orderly and effective exploration, leasing and development of said mineral resources, or will continue to so interfere or obstruct or so threaten to obstruct; and further answering, Massachusetts denies that any such action will cause any injury to the Plaintiff; and further answering, Massachusetts neither admits nor denies the statement "The United States has no other adequate remedy" but calls upon the Plaintiff to prove the same.

VIII.

In answer to Paragraph VIII of the Plaintiff's complaint, Massachusetts denies there is urgent need for prompt and final settlement of the controversy, denies that the fundamental question in issue relates to aspects of the foreign policy of the United States, and admits the allegation that only in this Court is it possible to join all defendant States whose participation is necessary to the orderly adjudication of issues in which they have a common interest.

AFFIRMATIVE DEFENSE

By way of the affirmative defense, Massachusetts alleges that as successor in title to certain royal charters of the

Crown of England, Massachusetts is now, and since its entry into the Union has been, entitled to exercise exclusive dominion and control over the exploration and development of such natural resources as may be found in, on or about the seabed and subsoil underlying the Atlantic Ocean adjacent to its coast line, subject to the limits of national seaward jurisdiction established by the Plaintiff; and further, that the power to exercise such exclusive dominion and control is neither delegated to the Plaintiff nor prohibited to Massachusetts by the Constitution of the United States and that any attempt by the Plaintiff to assert any power to exercise any such dominion and control with respect to Massachusetts violates the provision of the Tenth Amendment to the Constitution of the United States and is therefore void and of no effect.

WHEREFORE, Massachusetts prays that a decree be entered declaring the rights of Massachusetts as against the Plaintiff to exercise exclusive dominion and/or control in, on, or about the seabed and subsoil underlying the Atlantic Ocean adjacent to its coastline, and further that the Plaintiff's complaint be dismissed, that Massachusetts be awarded its costs, and for such other and further relief as may be proper in the premises.

COMMONWEALTH OF MASSACHUSETTS
ROBERT H. QUINN
Attorney General
THOMAS J. CROWLEY
Assistant Attorney General
HAROLD PUTNAM
Assistant Attorney General

SEPTEMBER, 1969